

AMENDMENT AFTER NON-FINAL ACTION

Appln. No. 10/713,444

Docket No. 442005-00108

**REMARKS**

Claims 1-17 and 21-22 were pending in the application. Claims 15 and 21-22 have been withdrawn from consideration as being drawn to non-elected species of the invention. Claim 1 is objected to as reciting the limitation "the concrete form" without positively claiming "a concrete form." Claims 1, 3-6, 8, 10-12, 14, and 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,041,947 to Heneveld ("Heneveld '947"). Claims 2, 7, 9, 13, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Heneveld '947 in view of "design choice." Claims 2, 7-8, and 13 have been cancelled, and claims 24-27 newly submitted.

*Objection to Claim 1*

Claim 1 is objected to because line 7 recites the limitation "the concrete form" but "the concrete form has not been positively claimed." Office Action mailed 2/28/2008 at p. 2.

Claim 1 has been amended to recite "a bottom adapted to rest on the bottom of the concrete form" and to specify that the different heights may be determined "from the bottom of the chair." Support for this amendment may be found between page 2 line 19 and page 3 line 9, at page 4 lines 14-17, at page 6 lines 6-7, between page 7 line 20 and page 8 line 2, at page 11 lines 3-9, at page 12 lines 3-9, and at page 13 lines 7-10 of the specification, as well as in Figures 1-7 of the drawings.

In anticipation of further objections based on this argument, claims 6, 12, 21, and 22 have been amended to specify that the different heights may be determined "from a base of said body." Support for this amendment may also be found at the locations specified above.

*Rejections under § 102(b) over Heneveld '947*

Claims 1, 3-6, 8, 10-12, 14, and 17 stand rejected under § 102(b) as being anticipated by "Heneveld '947." The Office argues that "Heneveld discloses a multi-level chair capable of supporting post-tension concrete reinforcement cable at a fixed height from a bottom of a concrete form," and finds that the recited elements are disclosed in the reference. Office Action mailed 2/28/2008 at pp. 2-3.

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Claim 1 has been amended to specify a multi-level chair "with each of said receptacles substantially defining an unobstructed channel sized for post-tension reinforcement cable of a predetermined diameter, and each of said channels extending parallel to the bottom of the chair and across the entire body of the chair." Support for this amendment may be found in Figures 1-7 of the drawings, as well as at page 5 lines 3-9 of the specification and in original claims 18 and 19 ("identical multi-level chairs"). Heneveld '947 specifies that:

Slots 24 are positioned vertically under slots 14 but slightly inwardly to the wall on which the rack is to be mounted. The purpose of this location is to mount the elongated handles or other items at an angle slightly inclined toward the wall on which the rack is mounted as illustrated by the phantom lines A, B, C, and D in FIG. 3. The relationship of the associated slots on the upper and lower legs is such that when in use the angle toward the vertical wall of the elongated handle is greater as its position moves away from the wall.

Heneveld '947 does not anticipate the amended claim since channels corresponding to phantom lines A, B, C, and D are not "parallel to the bottom of the chair" and/or not "unobstructed... across the entire body of the chair" (as best seen in Figures 1 and/or 6). Dependent claims 3-5 incorporate these limitations by reference. Therefore the rejections of claims 1 and 3-5 under § 102(b) have been overcome.

Claims 6 and 12 have been amended to specify a multi-level chair with receptacles "being oriented perpendicularly to the plane defined by said V-shape." Support for this amendment may be found in Figures 1-4 and 7 of the drawings. The reference shows devices with receptacles oriented within the plane defined by the general shape of the device, and relies upon that receptacle orientation in order to function as a tool rack. *See* Heneveld '947 at col. 3 ll. 33-59. Heneveld '947 does not anticipate the amended claim since the receptacles identified by the Office are not perpendicular to the plane defined by the V-shape of the device. Dependent claims 9-11 and 14-17 incorporate this limitation by reference. Therefore the rejections of

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claims 6, 9-12, and 14-17 under § 103(b) have been overcome.

*Rejections under § 103(a) over Heneveld '947*

Claims 9 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Heneveld '947 in view of "design choice." Due to the amendments described above, the rejections under § 103(a) have been overcome. However with regard to claim 16, the Office has commented that "there is no express disclosure in the specification supporting 1/2 inch." Office Action mailed 2/28/2008 at p. 4.

We respectfully refer the Office to MPEP § 608.01(I). Claim 16 constitutes an original claim disclosing a spacing of one half inch. Moreover, at page 8 lines 12-23 of the specification, receptacles 28a-28e along leg 24a are described as being spaced vertically apart by 1/2 inch – with receptacle 28a at 0.75 inches, 28b at 1.25 inches, etc. – and receptacles 28f-29k along leg 24b are similarly described as being spaced vertically apart by 1/2 inch – with receptacle 28f at 1.00 inches, 28g at 1.50 inches, etc. Such description constitutes an express disclosure.

*Further Amendments to Claims 1, 6, 12, and 21-22*

Claims 1, 6, 12, and 21-22 have been amended to delete the limitations "partially enclosed [receptacles]" and "after final placement of the chair" added via the amendments filed on June 21, 2007. Claims 1, 6, and 12 have also been amended to delete the limitation "[supporting a post-tension reinforcement cable] in an arcuate orientation above the bottom of the concrete form" added via the amendments filed on June 21, 2007. Support for these amendments may be found in the pre-amended claims, as well as in original claims 1, 6, and 12.

*New Claims*

Dependent claims 24-27 are submitted for examination.

Claim 24 adds the further limitation "wherein the bottom of the chair comprises a pair of spaced feet provided at the downward ends of each of said legs." Support for this claim may be found at page 7 lines 20-22 of the specification, as well as in Figures 1-4.

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Claim 25 adds the further limitation "wherein the bottom of the chair comprises a base plate extending between the downward ends of said legs." Support for this limitation may be found at page 13 lines 2-8 of the specification, as well as in Figure 7. In view of the species restriction and election made on June 21, 2006, the claim is withdrawn pending allowance of a generic claim.

Claims 26 and 27 add the further limitation "wherein said legs have a generally V-shaped cross-sectional configuration." Support for this limitation may be found at page 7 lines 17-18 of the specification.

*Conclusion*

In view of the foregoing amendments and remarks, we respectfully submit that the present claims are allowable over the art of record and pray for a prompt allowance. The Commissioner is authorized to charge any additional fees required or to credit any overpayment to Deposit Account No. 20-0809.

Respectfully submitted,

/David R. Jaglowski/  
David R. Jaglowski  
Reg. No. 58,514

THOMPSON HINE LLP  
P.O. Box 8801  
Dayton, Ohio 45401-8801  
Telephone: (937) 443-6600  
Facsimile: (937) 443-6635  
E-mail: IPGroup@ThompsonHine.com  
528824.1